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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/715,752
Inventor(s) : Andrea Branca, et al.
Filed : November 18, 2003
Art Unit : 1734
Examiner : Sonya Mazumdar
Docket No. : CM2543CQ
Confirmation No. : 5522
Customer No. : 27752
Title : Improved Process For Printing Actives Onto Articles

APPEAL BRIEF

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir,

This Brief is filed pursuant to the appeal from the U.S. Patent and Trademark Office Final Office Action dated January 3, 2007. A timely Notice of Appeal was filed on March 29, 2007.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 1 – 14 are pending. Claims 1 – 4, 7, and 10 – 14 stand rejected. Claims 1 – 4, 7, and 10 – 14 are being appealed. A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

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STATUS OF AMENDMENTS

No amendment was filed subsequent to the appeal from Final Action of January 3, 2007.

SUMMARY OF THE CLAIMED SUBJECT MATTER

Claim 1 relates to a process for applying an active material onto an article, series of articles or web of articles, comprising the steps of applying said active material to a surface of a first tool in the form of a multitude of beads with a coater unit having a multitude of applicators that are in close proximity to the surface, and positioned above the surface (see, *inter alia*, page 9, lines 11 – 14 and FIGs 1 and 1B); heating the coater unit such that the active material is applied at a temperature of between 70 degrees C and 250 degrees C (see, *inter alia*, page 10, lines 9 – 10); contacting the surface of the first tool containing the active material with a coating blade, which has an angle of between 5° and 40° with the tangent of the surface of the first tool (see, *inter alia*, page 13, lines 1 – 2 and FIG 2) and applies a constant pressure onto the surface with active material (see, *inter alia*, page 13, line 13); and transferring the active material from the surface of the first tool to an article, series of articles or web of articles (see, *inter alia*, page 8, lines 20 – 22 and FIG 3), supported on a surface of a second tool and pressed against the surface of the first tool (see, *inter alia*, page 13, lines 25 – 29 and FIG 3).

Claim 2 relates to a process for applying an active material onto an article, series of articles or web of articles (see, *inter alia*, page 8, lines 20 – 22) comprising the steps of: applying said active material to a surface of a first tool (see, *inter alia*, FIGs 1 and 1B); and transferring said active material from the surface of the first tool to an article, series of articles or web of articles (see, *inter alia*, page 8, lines 20 – 22) supported on a surface of a second tool and pressed against the surface of the first tool (see, *inter alia*, page 13, lines 25 – 29 and FIG 3), wherein the active material in step a) is applied in the form of a multitude of beads (see, *inter alia*, FIG 1B), with a coater having a multitude of extruder-applicators (see, *inter alia*, page 9, lines 23 – 25), which are in close proximity to the surface of the first tool; wherein the coater is heated such that the active material is applied

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at a temperature between 70 degrees C and 250 degrees C (see, *inter alia*, page 10, lines 9 – 10 and FIG 1).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- 1) Claim 2 stands rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,569,348 issued to Hefe (hereinafter "Hefe I").
- 2) Claims 1 and 3 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 3,574,153, issued to Sirota (hereinafter "Sirota") in view of U.S. Pat. No. 6,475,283 issued to Koehn (hereinafter "Koehn") and U.S. Pat. No. 4,906,335 issued to Goodnow, *et al.*, (hereinafter "Goodnow").
- 3) Claims 1, 3, and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over EP 0978263, filed by Lender, *et al.* (hereinafter "Lender") in view of Koehn and Goodnow.
- 4) Claims 1, 3, and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,343,260, issued to Yajima, *et al.* (hereinafter "Yajima") in view of U.S. Pat. No. 3,762,365 issued to Herzog (hereinafter "Herzog") and U.S. Pat. No. 4,141,313 issued to Hefe (hereinafter Hefe II).
- 5) Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Yajima in view of Herzog and Hefe II as applied to claim 3, and further in view of EP 0978263 filed by Lender *et al.* (hereinafter "Lender") and U.S. Pat. No. 5,064,492, issued to Friesch (hereinafter "Friesch").
- 6) Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Yajima in view of Herzog and Hefe II as applied to claim 3, and further in view of Hefe I.
- 7) Claims 10, 12, and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Yajima *et al.* in view of Herzog and Hefe II as applied to claim 1, and further in view of U.S. Pub. No. 2003/0138570 by Kaylor, *et al.*, (hereinafter "Kaylor").

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- 8) Claim 14 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Yajima in view of Herzog, Hefele II, and Hefele I as applied to claim 7, and further in view of U.S. Pat. No. 5,695,376, issued to Datta *et al.* (hereinafter "Datta").

ARGUMENTS

- 1) Claim 2 is not anticipated by Hefele I under 35 U.S.C. § 102(b) or, in the alternative, unpatentable over Hefele I under 35 U.S.C 103(a).

It is well-settled that in order to anticipate a claim, the reference must teach each and every element of the claim. (MPEP §2131). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). Additionally, it is well settled that in order to establish a *prima facie* case of obviousness, three requirements must be met. (MPEP §2143). First, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. (Id). Second, there must be some reasonable expectation of success. (Id). Third, the cited references must teach or suggest all of the claim limitations. (Id).

Applicants remind the Office that the process recited in claim 2 includes the features of transferring the active material from the surface of the first tool to an article, series of articles or web of articles, supported on a surface of a second tool and pressed against the surface of the first tool, wherein the active material in step a) is applied in the form of a **multitude of beads** with a coater having a **multitude of extruder-applicators**.

For the sake of clarity, Figs 1 and 1B are depicted below. In an effort to more clearly show particular elements depicted in FIGs 1 and 1B, Applicants have shaded one of the plurality of applicator units (110) dark gray (black) and one of the multitude of beads

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(201) of adhesive (220) light gray. As can be seen in FIGs 1 and 1B below, one example of a bead (201) of adhesive (220) comprises a substantially unbroken line or stripe of adhesive.

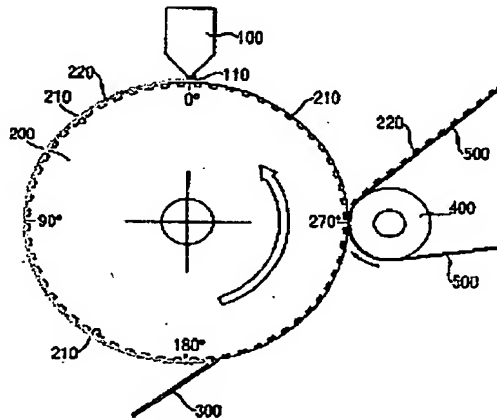


FIG 1

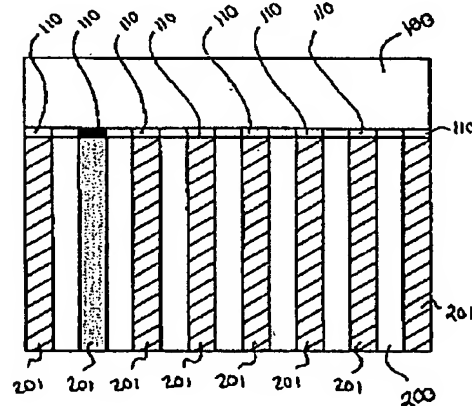


FIG 1B

The present application discloses that "[t]he coater applicator deposits a multitude of beads onto the tool. Preferably, the process is continuous and the coater continuously applies such beads, which thus form endless beads on the tool." (The present application, page 9, lines 20-22). The present application further discloses that "[t]he coater applicator is preferably a unit having a multitude of applicators . . . which **extrudes** the active material **through** a die with a multitude of openings. (Id at lines 22 – 25) (emphasis added). The present application also discloses that

Preferred is that a pressure is applied onto the coater, as is the case in common extrusion processes, such that the active material exits the coater aided by this pressure. Preferred may be for example that the coater has a unit containing active material to be applied, which is under a certain pressure and which forces the active material through the individual openings, e.g. through a die with openings, or through individual applicator tubes. The pressure also aids to apply the required amount per surface area of the tool and the pressure may thus be adjusted if the speed of the tool changes.

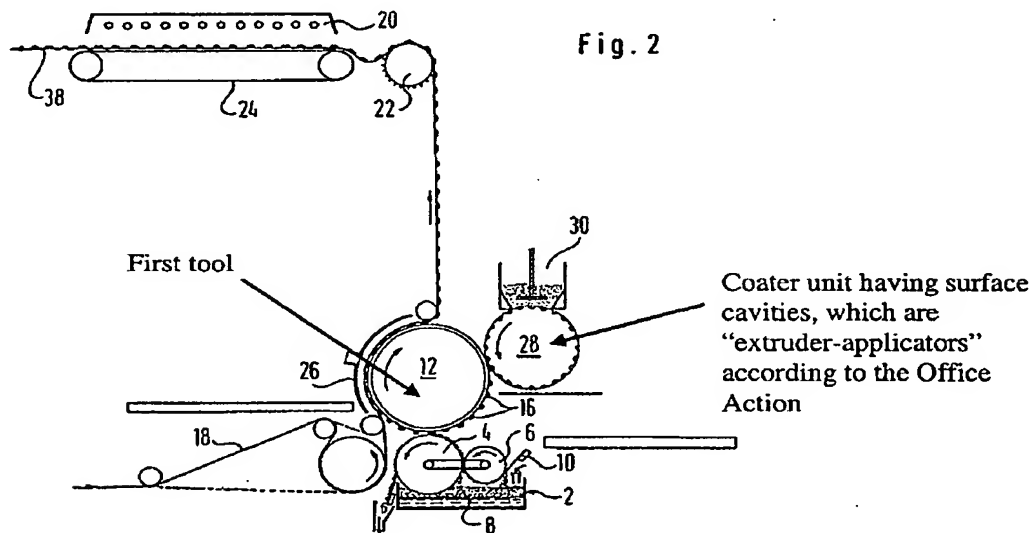
(The present application, page 10, lines 15 – 21) (emphasis added).

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The Office Action dated January 3, 2007 states that "[t]he adhesive is extruded onto a surface of a roller, *i.e.*, first tool (12), in the form of a multitude of beads by means of a coater unit (28) that has a multitude of extruder-applicators, in the form of surface cavities, and a hot melt doctor blade (32) to assist the gravure printing process." (The Office Action, page 4) (emphasis added). In the Advisory Action dated March 23, 2007, the Office stated

surface cavities on an engraved roller (28) taught by Hefele act as a multitude of extruder-applicators in view that adhesive in the surface cavities in the engraved roller is pressed and coated onto a heating roller (Figure 3). As pointed out in Applicants' specification, it is preferred that active material exits the coater aided by a pressure applied onto the coater . . . where in this case, pressure between the engraved roller and heating roller causes the adhesive to be forced out of the surface cavities and transferred onto the heating roller.

(Advisory Action, last page) (emphasis added). For the sake of clarity, Fig 2 of Hefele I is shown below. Applicants have highlighted and labeled particular elements as they are referred to in the Office Action.



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Applicants would like to point out that Hefe I discloses on several occasions that the adhesive is in the form of dots. (*See* Hefe I, col. 1, lines 30 – 31; col. 2, line 43; col. 3, lines 20 – 30; col. 5, lines 62 – 66; Figs 1 – 9). Additionally, Applicants are unable to find any disclosure directed to a multitude of beads, as is recited in claim 2 of the present application and thus, Applicants respectfully submit that Hefe I does not teach or suggest a multitude of beads.

The Advisory Action states that “where in this case, pressure between the engraved roller and heating roller causes the adhesive to be forced out of the surface cavities and transferred onto the heating roller.” (The Advisory Action, last page). Applicants are unable to find this disclosure in Hefe I. “In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable.” (37 CFR § 1.104(c)(2)). Applicants respectfully submit that, without further clarification, a rejection based on the above reasoning is improper under 37 CFR § 1.104(c)(2).

If, on the other hand, the Office is taking official notice of the aforementioned assertion, then Applicants submit that the assertion is still improper. “While ‘official notice’ may be relied on, these circumstances should be rare when an application is under final rejection or action under 37 CFR 1.113.” (MPEP § 2144.03(A). “The notice of facts beyond the record which may be taken by the examiner must be ‘capable of such instant and unquestionable demonstration as to defy dispute.’” (*In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970) citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)). Applicants are unable to find any reasoning by the Office as to why it is the pressure between the rollers that is forcing the adhesive out of the surface cavities as opposed to another means say, for example, a difference in capillary pressure that may be present due a difference in the surface compositions of the rollers and/or physical state (e.g., sintered solid or nonsintered powder) of the adhesive contacting the surface of each roller.

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Notwithstanding the above remarks, the Advisory Action asserts that the adhesive in Hefe I is pressed and coated out of the surface cavities of the roller (28) onto the surface of the heating roller (12). (The Advisory Action, last page). As best understood by Applicants, the Office is essentially asserting that Hefe I discloses transferring the adhesive from the surface of one roller to the surface of another roller. In stark contrast, the present application clearly discloses that the active material (e.g., adhesive) is forced through an opening (e.g., a die opening). Applicants submit that the Hefe I does not teach or suggest extruding an adhesive through an opening. Therefore, Applicants respectfully submit that the "press and coat" process of Hefe I is clearly not the same as extrusion process recited in claim 2 of the present application, and that one of ordinary skill in the art would not understand the process described in Hefe I to be an extrusion process.

In light of these remarks, it is Applicants' position that Hefe I does not teach or suggest each and every element of claim 2. Accordingly, Applicants respectfully submit that the rejection of claim 2 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as unpatentable over Hefe I is improper.

2) Claims 1 and 3 are patentable Over Sirota in view of Koehn and Goodnow under 35 U.S.C. 103(a)

Claim 1 recites, *inter alia*, applying said active material to a surface of a first tool in the form of a multitude of beads. The Office Action dated January 3, 2007 correctly states that "Sirota does not teach applying adhesive as multitude of beads with a coater unit." The Office looks to Koehn to provide the missing disclosure.

As best understood by Applicants, Koehn discloses **spraying** an adhesive onto a roll via nozzles. (Koehn, col. 1, lines 49 – 53). Applicants understand spraying to mean dispersing a substance in the form of small drops or finely divided particles. In the Advisory Action dated March 23, 2007, the Office stated "[w]ith respect to the arguments made to rejection of claim 1 in view of Sirota, Koehn, and Goodnow, it is agreed that Koehn teaches spraying and dispersing an adhesive through nozzles in forms of small drops or a similar pattern thereto. However, the Examiner does not see a difference in the

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interpretation of "small drops" and the claimed 'multitude of beads.'" (The Advisory Action, last page). Applicants submit that the beads of adhesive depicted in FIGs 1 and 1B along with the description given above, clearly distinguishes applying an active in the form of a multitude of beads from applying an active in the form of a spray.

Applicants are unable to find any evidence or reasoning in the Office Action as to how the spray nozzles of Koehn enable adhesive to be applied in the form of a multitude of beads, as is recited in claim 1. It is Applicants position that Goodnow does not overcome the failing of Sirota and Koehn and thus, the combination of Sirota, Koehn, and Goodnow do not teach an active applied in the form of a multitude of beads, as is recited in claim 1 of the present application.

The Office Action states "Sirota does not teach positioning a doctor blade at a certain angle tangent to the surface of a roller." (The Office Action, page 6, first full paragraph). The Office looks to Goodnow for the missing disclosure. The Office Action further states "Goodnow et al. teach optimizing the angle of a doctor blade against a rotating surface (column 1, lines 20 - 34).

As best understood by Applicants, Goodnow discloses "[a] doctoring apparatus which enables the blade angle to be adjusted without interrupting the production process." (Goodnow, col. 3, lines 23 - 26). Goodnow goes on to state "[i]n some cases the doctored material may consist of a sheet or web being processed on the rotating surface, whereas in other cases the doctored material may consist of contaminants accumulating on the surface." (Goodnow, col. 1, lines 15 - 19). However, Applicants are unable to find any disclosure in Goodnow directed to a specific use for the apparatus, only that it relates to the "type employed in the processing of paper, textiles and other like industrial products." (Goodnow, col. 1, lines 9 - 11).

Applicants are unable to find any reasoning in the Office Action as to why one of ordinary skill in the art would understand the generalized disclosure of Goodnow to teach or suggest contacting the surface of the first tool containing the active material, with a coating blade which has an angle of between 5° and 40° with the tangent of the surface of

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the first tool, and which applies a constant pressure onto the surface with active material, as is recited in claim 1 of the present application. Applicants would like to point out that Goodnow does not teach or suggest that the optimum blade angle may vary with the type of material being doctored, or even what criteria should be used to define optimum blade angles. In fact, Applicants are unable to find any teaching or suggestion in Goodnow of any specific optimum blade angles, only that optimum blade angles and uniform blade pressure may be desirable when a doctor blade is applied to a rotating surface.

It is Applicants' position that, at most, Goodnow merely discloses that it may be desirable to find and maintain optimum blade angles for various applications involving a doctor blade and a rotating surface. However, Goodnow does not offer any **enabling** teaching or suggestion as to how one of ordinary skill determines an optimum doctor blade angle or what an optimum blade angle might be for a given application. Thus, Applicants respectfully submit that Goodnow does not overcome the failings of Sirota.

In light of the foregoing remarks, it is Applicants' position that the combination of Sirota in view of Koehn and Goodnow does not teach or suggest each and every element of claim 1 or 3. Accordingly, Applicant respectfully submit that the rejection of claims 1 and 3 under 35 U.S.C. §103(a) over Sirota in view of Koehn and Goodnow is improper.

3) **Claims 1, 3, and 11 are patentable Over Lender, Koehn, and Goodnow under 35 USC §103(a)**

Even assuming, *arguendo*, that Lender contains the disclosure for which it is cited, the remarks made above with regard to Koehn and Goodnow are equally applicable to the instant rejection. Specifically, by disclosing spray nozzles, Koehn actually teaches away from the recitation of claim 1, and by not providing any sort of enabling disclosure on how to find an optimum angle, Goodnow does not teach or suggest a coating blade which has an angle of between 5° and 40° with the tangent of the surface of a first tool, as is recited in claim 1 of the present application. The Office Action states that "Lender et al. do not teach

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applying adhesive as a multitude of beads with a coater unit having a multitude of applicators.” (The Office Action dated January 3, 2007, page 6). Thus, Applicants assert that Lender does not provide the necessary disclosure to overcome the failings of Koehn and Goodnow.

In addition Applicants assert that the combination of Lender and Koehn is improper because Lender actually teaches away from Koehn. It is well settled that “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.” *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990). “It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983). It is also well settled that “a reference may be said to teach away . . . if it suggests that the line of development flowing from the reference disclosure is unlikely to be productive of the result sought by the applicant.” *Tec Air Inc. v. Denso Manufacturing Michigan Inc.*, 192 F.3d 1353 (Fed. Cir. 1999).

As pointed out above, Applicants understand Koehn to be directed to spraying an adhesive onto a roll via nozzles. (Koehn, col. 1, lines 49 – 53). Lender states

A common way of providing an adhesive is by application by slot-coating or spraying of the adhesive onto a continuously conveyed thread of material.” (Lender, col. 1, lines 42 – 45). Lender goes on to state that “[o]ne common drawback of all the above mentioned adhesive application processes is their inflexibility, inaccuracy relative to the shape of the adhesive to be applied and that they essentially can only provide the adhesive continuously.” (Lender, col. 2, lines 40 – 44) (emphasis added). Lender further states “[i]t has now been surprisingly found that these problems can be addressed by the direct application of the adhesive onto the roll printing by utilization of techniques . . . whereby the temperature of the adhesive at application is greater than the temperature of the printing roll.” (Lender, col. 4, lines 10 – 15) (emphasis added).

Applicants submit that Lender clearly discloses the undesirability of spraying adhesive onto the printing roll and therefore, the combination of Lender and Koehn is improper.

Further, the present application states “preferred temperatures are such that the tool or at least the surface thereof has a temperature, which is at least 5°C, or even at least 10°C,

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or even at least 20°C **more than the temperature of the active material leaving the coater** (and thus typically the temperature of the coater when initially applied).

(The present application, page 12, lines 27 – 31) (emphasis added). Applicants submit that Lender clearly teaches away from the present application and thus, is not properly available as reference.

It is Applicants' position that the combination of Lender in view of Koehn and Goodnow is improper and that the combination does not teach or suggest each and every element of claims 1, 3, or 11. Accordingly, Applicants respectfully submit that the rejection of claims 1, 3, and 11 under 35 U.S.C. § 103(a) is improper.

4) Claims 1, 3, and 11 are patentable over Yajima, Herzog, and Hefe II under 35 USC §103(a)

As best understood by Applicants, Yajima and Hefe II clearly disclose applicators directed for use with liquid materials while Hefe II, on the other hand, is clearly directed to applicators for use with solid (*i.e.*, powder) materials. Therefore, Applicants continue to assert that the combination of Yajima, Hefe II and Herzog is improper.

Case law clearly states, "[i]t is impermissible within the framework of §103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art." *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 448 (Fed. Cir. 1986). It is Applicants' position that the Office has selectively chosen portions of Hefe II to support the position that Hefe II will provide disclosure directed to a multitude of applicators and an angle of a scraper blade to the exclusion of the parts directed to use with a powder. Further, Applicants are unable to find any explanation in the Office Action as to why one of ordinary skill in the art would modify the liquid handling applicator of Yajima with the powder handling applicator of Hefe II.

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The Office Action states “the amount of adhesive shown in the pattern is dependent on the angle of the blade.” (The Office Action, page 7). However, Applicants are unable to find any reasoning or evidence in the Office Action explaining why one of ordinary skill in the art would be motivated and/or enabled to modify the **liquid**-oriented process of Yajima with the **rake** of Hefe II in order to provide the process recited in claim 1 of the present application. Accordingly, Applicants respectfully submit that even if the combination of Yajima and Hefe II were proper, the result still wouldn’t teach or suggest each and every element recited in claim 1 of the present application.

Notwithstanding the above remarks, case law provides that “[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” MPEP § 2143.01 (citing *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)). In *Ratti*, the court reversed an obviousness rejection and held that the “suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate.” (*In re Ratti*, 270 F.2d 813, 123 USPQ 352 (CCPA 1959)). Applicants respectfully submit that the holding in *Ratti*, is equally applicable in the instant case because the modification proposed by the Office may change the basic principle by which the apparatus of Yajima operates. (*In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)).

Additionally, Applicants assert that the Office’s proposed modification to Yajima may render Yajima unsatisfactory for its intended purpose. Case law provides that “[i]f the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” MPEP § 2143.01 (citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)).

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Yajima states that “[a]n object of the present invention is to provide an apparatus for applying a liquid state material onto a surface of a cloth or the like by which the liquid can be uniformly and continuously applied in dot pattern.” (Col. 1, lines 16 – 20). In contrast, Applicants understand Hefe II to disclose the application of an adhesive powder to an engraved roll. Hefe II discloses that the engraved roll is at a lower temperature than the melting point of the adhesive powder. (See Example 1, col. 8, lines 8-24; col. 8 line 65 through col. 9 line 6). Additionally, Hefe II discloses that “[i]n the course of further rotation of the engraved roller the powder coatings 27, 28 then become adhered to this surface form.” (col. 6, lines 51-53). Because Hefe II discloses the application of a powder to a surface as opposed to a liquid, it is Applicants’ position that Hefe II is contrary to the purpose of Yajima.

For the foregoing reasons, it is Applicants’ position that the Office Action does not make a *prima facie* case of obviousness. Accordingly, Applicants respectfully submit that the rejection of claims 1, 3, and 11 under 35 U.S.C. §103(a) is improper.

5) Claim 4 is patentable over Yajima, Herzog, Hefe II, Lender, and Friesch under 35 USC §103(a)

In light of the above remarks, which equally applicable in the present rejection, Applicants respectfully submit that Yajima in view of Herzog and Hefe II is not sufficient to make a *prima facie* case of obviousness against claim 4. Additionally, Applicants assert that Lender and Friesch do not provide the necessary teaching or suggestion to overcome the failings of the cited disclosures, and that at least Lender is unavailable as a proper reference. Accordingly, Applicants respectfully submit that the rejection of claim 4 under 35 U.S.C. §103(a) is improper.

6) Claim 7 is patentable over Yajima, Herzog, Hefe II, and Hefe I

In light of the above remarks, Applicants respectfully submit that Yajima in view of Herzog and Hefe II is not sufficient to make a *prima facie* case of obviousness against claim 7 for the same reasons as stated above. Additionally, Applicants assert that Hefe I

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does not provide the necessary teaching or suggestion to overcome the failings of the cited disclosures. Accordingly, Applicants respectfully submit that the rejection of claim 7 under 35 U.S.C. §103(a) is improper.

7) **Claims 10, 12, and 13 are patentable over Yajima, Herzog, Hefe II, and Kaylor under 35 U.S.C. §103(a)**

In light of the above remarks, Applicants respectfully submit that Yajima in view of Herzog and Hefe II is not sufficient to make a *prima facie* case of obviousness against claims 10, 12 and 13 for the same reasons as stated above. Additionally, Applicants assert that Kaylor does not provide the necessary teaching or suggestion to overcome the failings of the cited disclosures. Accordingly, Applicants respectfully submit that the rejection of claims 10, 12 and 13 under 35 U.S.C. §103(a) is improper.

8) **Claim 14 is patentable over Yajima, Herzog, Hefe II, Hefe I and Datta under 35 U.S.C. § 103(a)**

In light of the above remarks, Applicants respectfully submit that Yajima in view of Herzog and Hefe II is not sufficient to make a *prima facie* case of obviousness against claim 14 for the same reasons as stated above. Additionally, Applicants assert that neither Hefe I, as applied to claim 7, nor Datta provide the necessary teaching or suggestion to overcome the failings of the cited disclosures. Accordingly, Applicants respectfully submit that the rejection of claim 14 under 35 U.S.C. §103(a) is improper.

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Customer No. 27752

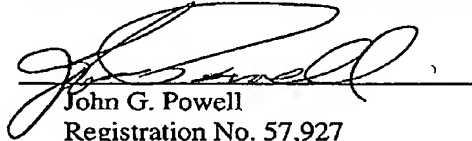
SUMMARY

Claims 1 – 4, 7, and 10 – 14 have not been properly rejected in the Final Action for all of the reasons discussed above.

The rejections of claims 1 appears to be based on an improper obviousness analysis. The rejections of claim 2 appears to stem from an improper characterization of the scope and content of Hefe I. The rejections of claim 3, 4, 7 and 10 – 14 appear to be based on an improper obviousness analysis. As such, the rejections should all be reversed by the Honorable Board of Appeals and Interferences.

Respectfully submitted,

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CLAIMS APPENDIX (Serial No. 10/715,752)

Appealed Claims – Case CM2543CQ

1. (Rejected) A process for applying an active material onto an article, series of articles or web of articles, comprising the steps of:
 - a) applying said active material to a surface of a first tool in the form of a multitude of beads, with a coater unit having a multitude of applicators that are in close proximity to the surface, and positioned above the surface;
 - b) heating the coater unit such that the active material is applied at a temperature of between 70 degrees C and 250 degrees C;
 - c) contacting the surface of the first tool containing the active material, with a coating blade which has an angle of between 5° and 40° with the tangent of the surface of the first tool, and which applies a constant pressure onto the surface with active material; and
 - d) transferring the active material from the surface of the first tool to an article, series of articles or web of articles, supported on a surface of a second tool and pressed against the surface of the first tool.
2. (Rejected) A process for applying an active material onto an article, series of articles or web of articles, comprising the steps of:
 - a) applying said active material to a surface of a first tool; and
 - b) transferring said active material from the surface of the first tool to an article, series of articles or web of articles, supported on a surface of a second tool and pressed against the surface of the first tool, wherein the active material in step a) is applied in the form of a multitude of beads with a coater having a multitude of extruder-applicators, which are in close proximity to the surface

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of the first tool; wherein the coater is heated such that the active material is applied at a temperature between 70 degrees C and 250 degrees C.

3. (Rejected) The process of claim 1 wherein the first tool and the second tool are each rotating, and wherein at least the first rotating tool is a roll.
4. (Rejected) The process of claim 3 wherein the coater and the first tool are heated and the second tool is cooled.
7. (Rejected) The process of claim 3, wherein the surface of the second tool has a temperature of between 0°C and 30°C.
10. (Rejected) The process of claim 3, wherein the surface of the second tool has a shore A hardness value from 25 to 90.
11. (Rejected) The process of claim 3, wherein the process is a gravure printing process, and wherein the surface of the first tool has cavities to receive the active material.
12. (Rejected) The process of claim 11 wherein the cavities have a pitch of less than 2 mm and a depth of less than 500 microns.
13. (Rejected) The process of claim 3 wherein the web of articles is stretchable and is rotated around said second rotating tool, such that the exit angle of the web is between 30° and 70°.
14. (Rejected) The process of claim 7 wherein the temperature of the surface of the first tool is higher than the melting temperature of the articles, series of articles or web of articles.

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EVIDENCE APPENDIX (Serial No. 10/715,752)

NONE

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RELATED PROCEEDINGS APPENDIX (Serial No. 10/715,752)

There is no additional information for the Related Proceedings Appendix in this appeal.